IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11392 of 2021

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1. M/s Shyam Traders At Jagun Bazar, P.O.- Jagun, P.S.- Lekhapani, Sub Division Office- Margherita, District- Tinsukiya, State- Assam- 786188 through its Proprietor Shiv Kumari Verma, Gender- Female, aged about 40 years, W/o Sri Janardan Verma, Resident of Jagun Bazar, P.O.- Jagun, P.S.- Lekhapani, Sub-Division Office- Margherita, District- Tinsukiya, State- Assam- 786188.
2. M/s Sandhya Stores, 64/16, Gala Dinanath, P.S.- Kotwali, District- Varansi, State- Uttar Pradesh through its Proprietor Manoj Kumar Singh @ Manoj Singh, Gender- Male, aged about 49 years, S/o Sri Ravi Shankar Singh, Resident of K 64/16, Gala Dinanath, P.S.- Kotwali, District- Varansi, State- Uttar Pradesh- 221001.

... ... Petitioner/s

Versus

1. The Union of India through the Chief Commissioner of Customs, Central Revenue Building, Beer Chand Patel Path, Patna.
2. The Commissioner (Appeals), Customs, CGST and CX, Patna, Central Revenue Building, Beer Chand Patel Path, Patna.
3. The Joint Commissioner of Customs (Preventive), HQRS, 5th Floor Central Revenue Building, Beer Chand Patel Path, Patna.
4. The Additional Commissioner (Adjudication), Office of the Commissioner of Customs, Central Revenue Building, Beer Chand Patel Path, Patna.
5. The Assistant Commissioner (Adjudication), Customs (Preventive), HQRS Office of the Chief Commissioner of Customs, Central Revenue Building, Beer Chand Patel Path, Patna.
6. The Assistant Commissioner (Preventive), Division Farbesganj, District- Araria, Bihar.
7. The Inspector cum Seizing Officer, Customs (P), Farbesganj, Division Farbesganj, District- Araria, Bihar.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Amarendra Kumar Pathak, Advocate
For the Respondent/s	:	Dr. K.N. Singh (ASG)
For the U.O.I.	:	Mr. Anshuman Singh, Sr. S.C. Customs

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 30-11-2021

Heard learned counsel for the parties.

Petitioners have prayed for the following relief(s).

> "(i) For Quashing of the Show Cause, Notice bearing no. VIII (10)-474/Import/18-19/5936-5939 dated 01.07.2019 (Annexure-2) issued by The Assistant Commissioner, Customs (Prev.) Division Forbesganj, whereby the petitioners have been informed that goods of the petitioners i.e. Big cardamom weighing 1257 Kg valued at Rs.20,11,200/- were seized at the Katihar Junction, Katihar on 09.01.2019 at 11.00 hrs. by the officer of the Customs (P),Division, Forbesganj U/S 110 of the Customs Act,1962 and accordingly the instant case was entered in 335-J register vide Unit Case No. 295/DPU/18-19 dated 09.01.2019 as they have contravened the provisions of Section 7,11,46 & 47 of the Customers Act, 1962 read with section 3(2) of the FTDR Act, 1992 and notification(s) issued under Section 11 of the Customs Act, 1962 in as much as they have been found indulged in illegal import of 1257 Kgs. of Big cardamom of 3rd country origin (TCO) valued at Rs. 20,11,200/- through unauthorized route without having any valid/legal document(s)/papers from third country to India and thus the said goods appears liable for confiscation under sections 111(b) of the said Act, and penalty is also imposable upon them for their willful involvement in the act of illegal importation of the said goods under Section 112(b) of the Customs Act, 1962.
> (ii) For Quashing of the consequential Original Order dated 11.12.2019

(Annexure-3) passed in Original Order No.37 -Cus/JC/FBG/2019-20 by the Joint Commissioner, Customs (Prev.) Hqrs, Patna arising out of Show Cause Notice bearing no. VIII (10)- 474 /Import/18-19/5936-5939 dated 01.07.2019 holding that from the circumstantial evidence(s) available on record that the said notices (petitioners) were consciously involved in the act of illegal importation of the said seized goods of origin from 3rd country to India through unauthorized route without having any valid document (s) /papers and were carrying the same in violation of the provision of Section 7, 11, 46 & 47 4 of the said Act read with section 3(2) of the FTDR Act,1992. Therefore all the notices (petitioners) are liable for penalty U/S 112) of the Customs Act 1962 and confiscated the said seized goods of the petitioners U/S 111(b) of the Customs Act 1962 and further ordered to redeem the same U/S 125 of the said Act, on payment of redemption fine of Rs.13, 07,280/- and further imposed penalty of Rs.5, 00,000/. upon both the petitioners U/S 112 of the said Act. Even without properly considering the defense reply dated 03.10.2019 filed by the petitioners.

(iii) For Quashing of the consequential order dated 27.11.2020 (Annexure-4) passed by Commissioner (Appeals), Customs, CGST & CX, Patna, whereby and where under appeals number 124/2919-20 and 125/2019-20 dated 13.02.2020 filed by the petitioners have been dismissed and copy of the same communicated to them Vide C.No.S-5-124 & 125/2019-20/CAP/SZ/PAT/304-07 Dated 27.11.2020.

(iv) For holding that the impugned Show

Cause Notice and the consequential orders passed by the respondents as contained in Annexure – 2, 3 and 4 is without application of mind, illegal, arbitrary, whimsical and wholly without justification.

(v) For holding that seizure of goods on 09.01.2019 by the officials of custom and initiation of proceeding/ unit case in 335-J register vide Unit Case No. 295/DPU/ 18-19 dated 09.01.2019 is illegal, arbitrary and wholly without jurisdiction.

(vi) For a direction upon the respondents to release the said seized goods of the petitioners i.e. the Big Cardamom valued at Rs.20,11,200/ seized by the officers of customs (P) Division, Farbisganj vide unit case no.295/DPU/18-19 dated 09.01.2019 pending disposal of the instant writ application.

(vii) For any other appropriate relief / reliefs as your Lordships may deem fit and proper."

Learned counsel for the petitioners seek permission to withdraw the present petition reserving liberty to prefer an appeal before the CESTAT (constituted under Section 129 of the Customs, Excise and Service Tax Appellate Tribunal). However, learned counsel states that the appellate authority be directed to decide the appeal expeditiously and preferably within a period of eight months.

Since petitioners have been pursuing the matter before this Court, issue of limitation shall not come in the way, if the appeal is preferred within next four weeks.

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, also stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/rajiv-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA